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24 *(additional counsel on Exhibit A)*

25 **UNITED STATES BANKRUPTCY COURT
26 NORTHERN DISTRICT OF CALIFORNIA
27 SAN FRANCISCO DIVISION**

28 In re:

1 PG&E CORPORATION

2 - and -

3 PACIFIC GAS AND ELECTRIC
4 COMPANY,

5 Debtors.

6 Affects Both Debtors

7 Affects PG&E Corporation

8 Affects Pacific Gas and Electric Company

9 Case No. 19-30088 (DM) (Lead Case)

10 Chapter 11

11 (Jointly Administered)

12 **EX PARTE APPLICATION FOR ORDER
13 PURSUANT TO B.L.R. 9013-1(c)
14 AUTHORIZING OVERSIZE REPLY BRIEF
15 IN SUPPORT OF SECURITIES LEAD
16 PLAINTIFF'S MOTION TO APPLY
17 BANKRUPTCY RULE 7023 TO CLASS
18 PROOF OF CLAIM**

19 **(No Hearing Requested)**

20 Public Employees Retirement Association of New Mexico ("Lead Plaintiff"), the court-
21 appointed lead plaintiff in the securities class action captioned as *In re PG&E Corporation
22 Securities Litigation*, Case No. 18-03509 (the "Securities Litigation"), pending in the United
23 States District Court for the Northern District of California, filed a motion to apply
24 Bankruptcy Rule 7023 to the Securities Litigation. The motion was denied by the court on
25 February 10, 2020, and the parties filed cross motions for reconsideration. The court denied
26 plaintiffs' motion for reconsideration on March 10, 2020, and granted defendants' motion for
27 reconsideration on March 17, 2020. Defendants filed a motion for rehearing on April 1, 2020,
28 which was denied on April 14, 2020.

36328/2

1 States District Court for the Northern District of California, on behalf of itself and the proposed
2 class it represents in the Securities Litigation (the “**Class**”), together with York County on behalf
3 of the County of York Retirement Fund, City of Warren Police and Fire Retirement System, and
4 Mid-Jersey Trucking Industry & Local No. 701 Pension Fund, hereby submit this *Ex Parte*
5 Application (the “**Application**”), pursuant to Rule 9013-1(c) of the Bankruptcy Local Rules for
6 the United States Bankruptcy Court for the Northern District of California (the “**Bankruptcy**
7 **Local Rules**”), for entry of an order, substantially in the form submitted herewith (the “**Proposed**
8 **Order**”), authorizing the Lead Plaintiff to file an oversize reply brief (the “**Reply**”) in support of
9 its Motion to Apply Bankruptcy Rule 7023 to Class Proof of Claim (the “**Motion**”).

10 For the reasons set forth below, the Application should be granted.

11

ARGUMENT

12

A. An Oversize Reply Brief is Warranted

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Bankruptcy Local Rule 9013-1(c) provides that, “[u]nless the Court expressly orders otherwise, the initial and response memoranda of points and authorities shall not exceed 25 pages of text, and reply memorandum shall not exceed 15 pages of text.” B.L.R. 9013-1(c).

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Lead Plaintiff submits that sufficient cause exists for the Court to allow an oversize reply brief in support of the Motion. First, the issues raised in the Motion are varied and complex. They involve application of a two-step analysis, the first step of which is the subject of the Motion and involves consideration of various factors. *See In re Chaparral Energy, Inc.*, 571 B.R. 642 (Bankr. D. Del. 2017); *In re Musicland Holding Corp.*, 362 B.R. 644 (Bankr. S.D.N.Y. 2007). Second, both the Debtors and the Official Committee of Tort Creditors (the “**TCC**”) have filed lengthy oppositions to the Motion. The Debtors’ opposition brief contains 23 pages of text and relies on three declarations and a request for judicial notice. [ECF 5369 – 5372, and 5374]. The TCC opposition (the “**TCC Objection**”) has 21 pages of text. [ECF 5373]. Perhaps more important

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28

1 than the length of the TCC Objection is that it raises issues which, as addressed in more detail in
2 the Reply, are both meritless and entirely unrelated to the Motion.

3 Finally, in seeking the application of Bankruptcy Rule 7023 and eventual certification of
4 the Class if the Motion is granted, the Motion is designed to protect and preserve the rights and
5 claims of thousands of absent Class members, who will otherwise be without a remedy.
6 Accordingly, Lead Plaintiff believes it is appropriate to request authority for its reply brief in
7 support of the Motion to exceed the 15 pages of text allowed under Bankruptcy Local Rule 9013-
8 1(c).

9

10 **B. Notice**

11 Notice of this Application will be provided to the Standard Parties and the Rule 2002
12 Parties, as those Parties are defined in Sections 5 and 6 of the Court's *Second Amended Order*
13 *Implementing Certain Notice and Case Management Procedures*. [ECF 1996]. Lead Plaintiff
14 respectfully submits that no further notice is required.

15

16 **C. No Previous Request for Relief**

17 No previous request for the relief sought herein has been made by Lead Plaintiff in this or
18 any other court.

19

20 **CONCLUSION**

21 WHEREFORE, Lead Plaintiff respectfully requests entry of the Proposed Order
22 authorizing it to file a Reply in excess of 15 pages of text, but not to exceed 25 pages of text
23 (exclusive of any schedules or exhibits thereto and/or any declarations filed in connection
24 therewith), and such other and further relief as the Court may deem just and proper.

25

26 [*signature page follows*]

27

1 Dated: January 22, 2020

2 Respectfully submitted,

3
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16 *Additional Counsel for the Securities Act Plaintiffs*

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EXHIBIT B
RESERVATION OF RIGHTS

2 **The Application and any subsequent pleading, appearance, argument, claim, or suit**
3 **made or filed by Lead Plaintiff, either individually or for the Class or any member thereof,**
4 **do not, shall not, and shall not be deemed to:**

5 a. **constitute a submission by Lead Plaintiff, either individually or for the Class**
6 **or any member thereof, to the jurisdiction of the Bankruptcy Court;**

7 b. **constitute consent by Lead Plaintiff, either individually or for the Class or any**
8 **member thereof, to entry by the Bankruptcy Court of any final order or**
9 **judgment, or any other order having the effect of a final order or judgment,**
9 **in any non-core proceeding, which consent is hereby withheld unless, and**
9 **solely to the extent, expressly granted in the future with respect to a specific**
9 **matter or proceeding;**

10 c. **waive any substantive or procedural rights of Lead Plaintiff or the Class or**
11 **any member thereof, including but not limited to (a) the right to challenge the**
12 **constitutional authority of the Bankruptcy Court to enter a final order or**
13 **judgment, or any other order having the effect of a final order or judgment,**
14 **on any matter; (b) the right to have final orders and judgments, and any other**
15 **order having the effect of a final order or judgment, in non-core matters**
16 **entered only after de novo review by a United States District Court judge; (c)**
17 **the right to trial by jury in any proceedings so triable herein, in the Chapter**
18 **11 Cases, including all adversary proceedings and other related cases and**
19 **proceedings (collectively, “Related Proceedings”), in the Securities Litigation,**
19 **or in any other case, controversy, or proceeding related to or arising from the**
19 **Debtors, the Chapter 11 Cases, any Related Proceedings, or the Securities**
19 **Litigation; (d) the right to seek withdrawal of the bankruptcy reference by a**
19 **United States District Court in any matter subject to mandatory or**
19 **discretionary withdrawal; or (e) all other rights, claims, actions, arguments,**
19 **counterarguments, defenses, setoffs, or recoupments to which Lead Plaintiff**
19 **or the Class or any member thereof are or may be entitled under agreements,**
19 **at law, in equity, or otherwise, all of which rights, claims, actions, arguments,**
19 **counterarguments, defenses, setoffs, and recoupments are expressly reserved.**

20 **For the avoidance of doubt, Lead Plaintiff, on behalf of itself and the Class, does not,**
21 **and will not impliedly, consent to this Court’s adjudication of the claims asserted against any**
22 **Non-Debtor Defendants now or hereafter named in the Securities Litigation.**